

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 148

HOUSE BILL 2330

AN ACT

AMENDING SECTION 4-101, ARIZONA REVISED STATUTES; RELATING TO ALCOHOLIC BEVERAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-101, Arizona Revised Statutes, is amended to
3 read:

4 4-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Act of violence" means an incident consisting of a riot, a brawl
7 or a disturbance, in which bodily injuries are sustained by any person and
8 such injuries would be obvious to a reasonable person, or tumultuous conduct
9 of sufficient intensity as to require the intervention of a peace officer to
10 restore normal order, or an incident in which a weapon is brandished,
11 displayed or used.

12 2. "Aggrieved party" means a person who resides at, owns or leases
13 property within a one mile radius of a premises proposed to be licensed and
14 who filed a written request with the department to speak in favor of or
15 opposition to the issuance of the license no later than sixty days after the
16 filing of the application or fifteen days after action by the local governing
17 body, whichever is later.

18 3. "Beer" means any beverage obtained by the alcoholic fermentation,
19 infusion or decoction of barley malt, hops, or other ingredients not
20 drinkable, or any combination of them.

21 4. "Board" means the state liquor board.

22 5. "Bona fide guest" means:

23 (a) A person who is actually a houseguest or a person whose presence
24 as a guest is in response to a specific and personal invitation.

25 (b) IN THE CASE OF A CLUB THAT MEETS THE CRITERIA PRESCRIBED IN
26 PARAGRAPH 7, SUBDIVISION (a) OF THIS SECTION, A CURRENT MEMBER OF THE ARMED
27 SERVICES OF THE UNITED STATES WHO PRESENTS PROPER MILITARY IDENTIFICATION AND
28 ANY MEMBER OF A RECOGNIZED VETERANS' ORGANIZATION OF ANY COUNTRY ALLIED WITH
29 THE UNITED STATES DURING CURRENT OR PAST WARS OR THROUGH TREATY ARRANGEMENTS.

30 6. "Broken package" means any container of spirituous liquor on which
31 the United States tax seal has been broken or removed, or from which the cap,
32 cork or seal placed thereupon by the manufacturer has been removed.

33 7. "Club" includes any of the following organizations where the sale
34 of spirituous liquor for consumption on the premises is made to members only:

35 (a) A post, chapter, camp or other local unit composed solely of
36 veterans and its duly recognized auxiliary which has been chartered by the
37 Congress of the United States for patriotic, fraternal or benevolent purposes
38 and which has, as the owner, lessee or occupant, operated an establishment
39 for that purpose in this state.

40 (b) A chapter, aerie, parlor, lodge or other local unit of an American
41 national fraternal organization which has as the owner, lessee or occupant
42 operated an establishment for fraternal purposes in this state. An American
43 national fraternal organization as used in this subdivision shall actively

1 operate in not less than thirty-six states or have been in active continuous
2 existence for not less than twenty years.

3 (c) A hall or building association of a local unit mentioned in
4 subdivisions (a) and (b) of this paragraph, all of the capital stock of which
5 is owned by the local unit or the members, and which operates the clubroom
6 facilities of the local unit.

7 (d) A golf club which has more than fifty bona fide members and which
8 owns, maintains or operates a bona fide golf links together with a clubhouse.

9 (e) A social club with more than one hundred bona fide members who are
10 actual residents of the county in which it is located, that owns, maintains
11 or operates club quarters, is authorized and incorporated to operate as a
12 nonprofit club under the laws of this state, and has been continuously
13 incorporated and operating for a period of not less than one year. The club
14 shall have had, during this one year period, a bona fide membership with
15 regular meetings conducted at least once each month, and the membership shall
16 be and shall have been actively engaged in carrying out the objects of the
17 club. The club's membership shall consist of bona fide dues paying members
18 paying at least six dollars per year, payable monthly, quarterly or annually,
19 which have been recorded by the secretary of the club, and the members at the
20 time of application for a club license shall be in good standing having for
21 at least one full year paid dues. At least fifty-one per cent of the members
22 shall have signified their intention to secure a social club license by
23 personally signing a petition, on a form prescribed by the board, which shall
24 also include the correct mailing address of each signer. The petition shall
25 not have been signed by a member at a date earlier than thirty days prior to
26 the filing of the petition. The club shall qualify for exemption from the
27 payment of state income taxes under title 43. It is the intent of this
28 paragraph that a license shall not be granted to a club which is, or has
29 been, primarily formed or activated to obtain a license to sell liquor, but
30 solely to a bona fide club, where the sale of liquor is incidental to the
31 main purposes of the club.

32 (f) An airline club operated by or for airlines which are certificated
33 by the United States government and which maintain or operate club quarters
34 located at airports with international status.

35 8. "Company" or "association", when used in reference to a
36 corporation, includes successors or assigns.

37 9. "Control" means the power to direct or cause the direction of the
38 management and policies of an applicant, licensee or controlling person,
39 whether through the ownership of voting securities or a partnership interest,
40 by agreement or otherwise. Control is presumed to exist if a person has the
41 direct or indirect ownership of or power to vote ten per cent or more of the
42 outstanding voting securities of the applicant, licensee or controlling
43 person or to control in any manner the election of one or more of the
44 directors of the applicant, licensee or controlling person. In the case of

1 a partnership, control is presumed to mean the general partner or a limited
2 partner who holds ten per cent or more of the voting rights of the
3 partnership. For the purposes of determining the percentage of voting
4 securities owned, controlled or held by a person, there shall be aggregated
5 with the voting securities attributed to the person the voting securities of
6 any other person directly or indirectly controlling, controlled by or under
7 common control with the other person, or by an officer, partner, employee or
8 agent of the person or by a spouse, parent or child of the person. Control
9 is also presumed to exist if a creditor of the applicant, licensee or
10 controlling person holds a beneficial interest in ten per cent or more of the
11 liabilities of the licensee or controlling person.

12 10. "Controlling person" means a person directly or indirectly
13 possessing control of an applicant or licensee.

14 11. "Department" means the department of liquor licenses and control.

15 12. "Director" means the director of the department of liquor licenses
16 and control.

17 13. "Distilled spirits" includes alcohol, brandy, whiskey, rum,
18 tequila, mescal, gin, absinthe, a compound or mixture of any of them or of
19 any of them with any vegetable or other substance, alcohol bitters, bitters
20 containing alcohol, fruits preserved in ardent spirits, and any alcoholic
21 mixture or preparation, whether patented or otherwise, which may in
22 sufficient quantities produce intoxication.

23 14. "Employee" means any person who performs any service on licensed
24 premises on a full-time, part-time or contract basis with consent of the
25 licensee, whether or not the person is denominated an employee, independent
26 contractor or otherwise. Employee does not include a person exclusively on
27 the premises for musical or vocal performances, for repair or maintenance of
28 the premises or for the delivery of goods to the licensee.

29 15. "Government license" means a license to serve and sell spirituous
30 liquor on specified premises available only to a county, city, town or state
31 university or the Arizona coliseum and exposition center upon application by
32 the governing body of a county, city, town or state university or the Arizona
33 exposition and state fair board.

34 16. "Legal drinking age" means the age of twenty-one years or older.

35 17. "License" means a license or an interim retail permit issued
36 pursuant to the provisions of this title.

37 18. "License fees" means fees collected for license issuance, license
38 application, license renewal, interim permit issuance and license transfer
39 between persons or locations.

40 19. "Licensee" means a person who has been issued a license or an
41 interim retail permit pursuant to the provisions of this title or a special
42 event licensee.

1 20. "Manager" means a natural person who meets the standards required
2 of licensees and has authority to organize, direct, carry on, control or
3 otherwise operate a licensed business on a temporary or full-time basis.

4 21. "Off-sale retailer" means any person operating a bona fide
5 regularly established retail liquor store selling spirituous liquors, wines
6 and beer, and any established retail store selling commodities other than
7 spirituous liquors and engaged in the sale of spirituous liquors only in the
8 original unbroken package, to be taken away from the premises of the retailer
9 and to be consumed off the premises.

10 22. "On-sale retailer" means any person operating an establishment
11 where spirituous liquors are sold in the original container for consumption
12 on or off the premises or in individual portions for consumption on the
13 premises.

14 23. "Person" includes a partnership, limited liability company,
15 association, company or corporation, as well as a natural person.

16 24. "Premises" or "licensed premises" means the area from which the
17 licensee is authorized to sell, dispense or serve spirituous liquors under
18 the provision of the license.

19 25. "Registered mail" includes certified mail.

20 26. "Registered retail agent" means any person who is authorized
21 pursuant to section 4-222 to purchase spirituous liquors for and on behalf
22 of himself and other retail licensees.

23 27. "Repeated acts of violence" means two or more acts of violence
24 occurring within seven days, three or more acts of violence occurring within
25 thirty days or acts of violence occurring with any other similar frequency
26 which the director determines to be unusual or deserving of review.

27 28. "Sell" includes soliciting or receiving an order for, keeping or
28 exposing for sale, directly or indirectly delivering for value, peddling,
29 keeping with intent to sell and trafficking in.

30 29. "Spirituous liquor" includes alcohol, brandy, whiskey, rum,
31 tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt
32 beverage, absinthe, a compound or mixture of any of them or of any of them
33 with any vegetable or other substance, alcohol bitters, bitters containing
34 alcohol, any liquid mixture or preparation, whether patented or otherwise,
35 which produces intoxication, fruits preserved in ardent spirits, and
36 beverages containing more than one-half of one per cent of alcohol by volume.

37 30. "Vehicle" means any means of transportation by land, water or air,
38 and includes everything made use of in any way for such transportation.

39 31. "Vending machine" means a machine that dispenses merchandise
40 through the means of coin, token, credit card or other nonpersonal means of
41 accepting payment for merchandise received.

42 32. "Veteran" means a person who has served in the United States air
43 force, army, navy, marine corps or coast guard, as an active nurse in the
44 services of the American red cross, in the army and navy nurse corps in time

1 of war, or in any expedition of the armed forces of the United States, and
2 who has received a discharge other than dishonorable.

3 33. "Voting security" means any security presently entitling the
4 owner or holder of the security to vote for the election of directors of an
5 applicant, licensee or controlling person.

6 34. "Wine" means the product obtained by the fermentation of grapes
7 or other agricultural products containing natural or added sugar or any such
8 alcoholic beverage fortified with grape brandy and containing not more than
9 twenty-four per cent of alcohol by volume.

APPROVED BY THE GOVERNOR MAY 5, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 5, 2003.

Passed the House February 24, 2003

by the following vote: 59 Ayes,

1 Nays, 0 Not Voting

Jake Flake
Speaker of the House

Spencer L. Fryore
Chief Clerk of the House

Passed the Senate April 28, 2003

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

Klu Bennett
President of the Senate

Norma Chastain
Asst. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2003

at 11:00 o'clock A. M.

Sandra Ramirez
Secretary to the Governor

Approved this 5 day of

May, 2003,

at 1050 o'clock A. M.

Ant Noyke
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 5 day of May, 2003,

at 3:59 o'clock P. M.

James L. Brewer
Secretary of State